

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 04-02-2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.31825 OF 2019

T.Jothilakshmi

...

Petitioner

-vs-

- 1.State of Tamil Nadu,
rep.by its Secretary to School Education Department,
Fort St.George,
Chennai-600 009.
 - 2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
 - 3.The Teacher Recruitment Board,
rep.by Member Secretary,
DPI Campus, College Road,
Chennai-600 006.
 - 4.The Chief Educational Officer,
Villupuram District,
Villupuram.
- ... Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to consider the objections of the petitioner to the panel for promotion to the post of High School Head Master published as on 05.07.2019 by taking into account the rank assigned by the Teachers Recruitment Board in the post of B.T. Assistant i.e., Rank No.113 as per Rule 35a of the Tamil Nadu State and Subordinate Service Rules and accordingly grant promotion to the petitioner to the post of High School Head Master with attendant service and monetary benefits.

For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mr.C.Munusamy,
Spl.Govt.Pleader.

ORDER

This Writ Petition has been filed for issuance of a writ of mandamus, directing the respondents to consider the objections made by the petitioner to the panel for promotion to the post of High School Head Master, that was published on 05.07.2019, by taking into account the rank assigned to her in the post of B.T.Assistant i.e., Rank No.113.

2. The case of the petitioner is that the Teachers Recruitment Board (TRB) issued a Notification in the year 2002, calling for applications to fill up the vacancies to the posts of Block Resource Teachers and School Assistants. It is clear from the advertisement itself that there was a separate vacancy position for these two posts and the candidates were given the option to apply for either of them or for both. Further, the advertisement itself made it clear that each post will have a separate merit-cum-roster.

3. The petitioner was selected to the post of Block Resource Teacher Educator (BRTE) and assigned Rank No.389 in the joint counselling. Subsequently, one more counselling took place for those persons, who had obtained top ranks. In the said counselling, the petitioner was appointed to the post of B.T.Assistant. It is clear from the Appointment Order, dated 30.09.2002, that the petitioner was appointed in the said post and Rank No.113 was assigned to her. This position is further clarified by the Service Register that was opened to the petitioner, wherein, again, the rank of the petitioner is found as 113. Even subsequently, a call letter was issued to the petitioner and, even in that, her rank is seen as 113. Her seniority, even as per EMIS, is also shown as 113. All these documents, which have been placed before this Court, are official documents, wherein, the official respondents themselves have recognised the rank of the petitioner in the post of B.T.Assistant as 113.

4. The next avenue for promotion is the post of High School Head Master. A panel was prepared in the year 2018 and it was also published by the second respondent, by his proceedings, dated 05.07.2019. In the said panel, the petitioner found that her name did not find place as Rank No.113, but, at the same time, she also found that several juniors, who had obtained lesser ranks than that of her in the post of B.T.Assistant, were included in the said tentative panel. The petitioner submitted her objections to the respondents in that regard. Since the said objections were not considered by the respondents, the present Writ Petition has been filed before this Court.

5. Mrs.Dakshayani Reddy, learned counsel for the petitioner, submitted that the rank of the petitioner was assigned as No.113 by the Teachers Recruitment Board when she was appointed as B.T.Assistant and the said rank must govern the entire service of the petitioner as per Rule 35-A of the Tamil Nadu State and Subordinate Service Rules, in short, 'the Rules''. The learned counsel also submitted that the respondents went wrong in assigning the rank of 389, which was given to the petitioner when she was initially considered for BRTE. According to her, the moment the petitioner was appointed as B.T.Assistant, the initial rank of 389 carries no significance and the same cannot be allowed to be carried on in the post of B.T.Assistant. The learned counsel further submitted that the respondents cannot be allowed to go beyond the rank that was assigned to the petitioner when she was appointed as B.T.Assistant and, therefore, they are bound to consider the objections made by the petitioner and her name must be added in the panel, by taking her rank as 113 and, accordingly, she must be considered for promotion to the post of High School Head Master.

6. Second respondent has filed a Counter Affidavit. A stand has been taken in the counter to the effect that the petitioner was assigned Rank No.389 at the time when she was appointed as BRTE and, therefore, the said rank will continue to be followed for all her further promotions. The second respondent has also taken a very specific stand that the rank, as assigned to the candidates at the time of their appointment, has strictly been followed and not even a single junior is placed above the petitioner and that all those names found in the draft panel are the persons, who were assigned a higher rank than the petitioner. A typed set has also been filed along with the Counter Affidavit and a sample case of one Saravanan is given in order to substantiate the fact that the said Saravanan was assigned Rank No.115 when he was appointed as BRTE and, subsequently, when he was posted as B.T.Assistant, the same rank continued.

7. Mr.C.Munusamy, learned Special Government Pleader, appearing on behalf of the respondents, submitted that there is absolutely no anomaly in the ranks which were assigned to the candidates at the time of their appointment and the petitioner was assigned the rank of 389 and the same will continue till the end. The learned Special Government Pleader further submitted that all the similarly placed persons are also dealt with in the same manner and their original ranks, as assigned when they joined as BRTEs, continue till the end and that when the seniority list is prepared, the said ranks alone are taken into consideration. Accordingly, he submitted that there is no merit in this Writ Petition and it is liable to be dismissed.

8. This Court has carefully considered the submissions made on either side and also the material available on record.

9. There is not much of dispute on the facts of the present case. The only issue where there is disagreement is, with regard to the fact that the petitioner was initially assigned Rank No.389 while she was considered for appointment as BRTE. Thereafter, she was appointed as B.T.Assistant by virtue of an Appointment Order, dated 30.09.2002, and, at that point of time, she was given Rank No.113. Now, the only question is, which rank will govern the seniority list, that is prepared by the respondents.

10. It is quite curious that the petitioner is identified with two different ranks, which should not have happened under normal circumstances. If the Board wanted to continue the original rank of 389 to continue in the case of the petitioner, it could have stated so in the Appointment Order, that was given to her on 30.09.2002, when she was appointed as B.T.Assistant. Had that been stated, there would not have been an occasion for any confusion in this regard. However, it is seen that the petitioner was assigned Rank No.113 and the same is clear from her Appointment Order, Service Register and also EMIS. These are official documents, which are placed before this Court and, therefore, Rank No.113, assigned to the petitioner, certainly carries some significance.

11. The respondent has taken a stand to the effect that the original rank that is assigned by the Board is continued for all the candidates till the end of their service and there is no exception to the said rule. For this purpose, the respondents have also relied upon Section 40 (1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. In order to demonstrate this fact, the case of one Saravanan has been taken as a sample. It is seen that the said Saravanan was appointed as BRTE by an Appointment Order, dated 15.07.2002, and assigned Rank No.115. The said candidate was subsequently transferred to a High School in the year 2006. On transfer, he was assigned the post of B.T.Assistant. In the transfer order, dated 21.11.2006, the same rank, that was assigned to him, was continued and it was shown as Rank No.115.

12. There is no difficulty in understanding the sample case that has been placed before this Court. The said Saravanan was initially a BRTE and, subsequently, he was transferred and assigned the post of B.T.Assistant. Therefore, obviously, the same rank had to continue for him and it is very clear from the Appointment Order and the Transfer Order, which have been placed before this Court. That case cannot be compared to the case on hand.

13. In the instant case, the petitioner was initially considered for appointment as BRTE and assigned Rank No.389. Subsequently, she was independently considered for the post of B.T.Assistant and an Appointment Order itself came to be issued to her on 30.09.2002, by posting her as B.T.Assistant and assigning Rank No.113, which continued in all other official documents.

14. Be that as it may, while preparing a Draft Panel for considering promotion to the post of High School Head Master, the respondents cannot be permitted to go back and take the rank of the petitioner, which was assigned to her, when she was appointed as BRTE. The moment the petitioner got a fresh appointment as B.T.Assistant, the earlier post, to which she was considered, namely, BRTE, automatically elapsed. The tag that was attached to BRTE post, namely, the rank of 389, cannot be permitted to take a piggy back to the post of B.T.Assistant. Where in that case, there would not have been any reason to assign the rank of 113 to the petitioner when she was appointed as B.T.Assistant.

15. In the considered view of this Court, the respondents completely misunderstood the whole scope of ranking and unnecessarily tagged the rank assigned for BRTE to B.T.Assistant. For the said mistake, the petitioner should not be made to suffer, since, right from the year 2002 onwards, she has always understood her rank to be 113. She cannot now be taken by surprise after such long service that her rank is not 113, but, 389. Such a stand taken by the respondents is totally unsustainable and it requires interference of this Court. The petitioner was perfectly right in making her objection for the Draft List, that was prepared for promotion to the post of High School Head Master, and the respondents ought to have placed the petitioner in Rank No.113 and carried out the necessary correction in the tentative Seniority List.

16. In view of the above discussion, the second respondent is directed to consider the objections made by the petitioner; assign her the rank of 113; place her in the tentative Seniority List accordingly, and consider her for promotion to the post of High School Head Master. In this regard, the second respondent shall summon the petitioner for counselling and consider her claim for promotion in accordance with her seniority. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

17. Writ Petition is allowed. No costs. Consequently, the connected W.M.P.No.32063 of 2019 stands closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

dixit

To

1. The Secretary to School Education Department,
State of Tamil Nadu,
Fort St.George,
Chennai-600 009.
2. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
3. The Member Secretary,
Teacher Recruitment Board,
DPI Campus, College Road,
Chennai-600 006.
4. The Chief Educational Officer,
Villupuram District,
Villupuram.

+1cc to Government Pleader, SR.No.9483.

BR(CO)
CSR: 26.02.2020

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W.P.No.31825 OF 2019

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